

RECORDATION NO.

24316-13

FILED

ALVORD AND ALVORD  
ATTORNEYS AT LAW  
1050 SEVENTEENTH STREET, N.W.  
SUITE 301  
WASHINGTON, D.C.

20036

(202) 393-2266

FAX (202) 393-2156

E-MAIL alvordlaw@aol.com

ELIAS C. ALVORD (1942)  
ELLSWORTH C. ALVORD (1964)

OF COUNSEL  
URBAN A. LESTER

JUL 17 '03

12-57 PM

SURFACE TRANSPORTATION BOARD

July 17, 2003

Mr. Vernon A. Williams  
Secretary  
Surface Transportation Board  
Washington, D.C. 20423

Dear Mr. Williams:

Enclosed for recordation pursuant to the provisions of 49 U.S.C. Section 11301(a) are two (2) copies of an Assignment and Assumption Agreement, dated as of June 27, 2003, a secondary document as defined in the Board's Rules for the Recordation of Documents.

The enclosed document relates to the Memorandum of Railcar Lease, as amended, previously filed with the Board under Recordation Numbers 24316 and 24316-A.

The names and addresses of the parties to the enclosed document are:

Assignor: C.I.T. Leasing Corporation  
1211 Avenue of the Americas  
New York, NY 10036

Assignee: MRC Rail Services. LLC  
5215 Old Orchard Road  
Suite 505  
Skokie, IL 60077

A description of the railroad equipment covered by the enclosed document is:

220 coal gondola railcars CEFX 44861 – CEFX 44980 and CEFX 45001 –  
CEFX 45100

Mr. Vernon A. Williams  
July 17, 2003  
Page Two

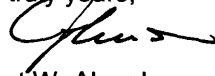
A short summary of the document to appear in the index follows:

Assignment and Assumption Agreement

Also enclosed is a check in the amount of \$30.00 payable to the order of the Surface Transportation Board covering the required recordation fee and cross-indexing fee.

Kindly return stamped copies of the enclosed document to the undersigned.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Alvord', with a stylized flourish extending to the right.

Robert W. Alvord

RWA/anr  
Enclosures

RECORDATION NO. 2-4316-6 FILED

JUL 17 '03 12:57 PM

**ASSIGNMENT AND ASSUMPTION AGREEMENT**  
SURFACE TRANSPORTATION BOARD

This ASSIGNMENT AND ASSUMPTION AGREEMENT ("Assignment Agreement") is entered into as of June 27, 2003, between [The CIT Group/Equipment Financing, Inc., a Delaware corporation / C.I.T. Leasing Corporation, a Delaware corporation] ("Assignor") and MRC Rail Services, LLC, a Delaware limited liability company ("Assignee").

**RECITALS**

A. Assignor and Assignee are among the parties to the Purchase and Sale Agreement dated as of June 27, 2003 (the "Agreement") pursuant to which Assignor has agreed to sell, assign, convey or otherwise transfer and Assignee has agreed to acquire certain Cars and Leases (as defined in the Agreement) for good and valuable consideration.

B. Assignee desires to acquire, and Assignor desires to convey the Lease described on Exhibit A attached hereto and made a part hereof (the "Lease").

ACCORDINGLY, THE PARTIES AGREE AS FOLLOWS:

1. Assignment of Lease. Assignor hereby sells, assigns, conveys and otherwise transfers to Assignee, and Assignee hereby acquires all of Assignor's rights and interest under the Lease; provided, however, that Assignor does not transfer, and Assignee shall not acquire, any interest in (a) any amounts owned or payable to Assignor with respect to the Lease which are attributable to periods prior to the date hereof (whether due from the lessee, carriers or otherwise) and (b) any claim or right, including, without limitation, the benefit of any indemnification for tax or other matters, which Assignor has or may have the right to assert against any person under the Lease (including, without limitation, the lessee) or otherwise (including under any insurance contract), insofar as such claim or right relates to assets not sold by Assignor pursuant to the Agreement or to matters which arose or may arise from or be related to any event or circumstance occurring or in existence prior to the date hereof.

2. Assumption of Assumed Obligations. Assignor hereby transfers, delegates and assigns to Assignee, and Assignee hereby accepts from Assignor the transfer, delegation and assignment and assumes and agrees to pay, perform and discharge all liabilities, obligations and duties of Assignor incurred, accrued, arising or to be performed at or after the date hereof, under or in connection with the Lease. As between Assignor and Assignee, Assignor, in respect of the period on and after the date hereof, shall have no obligations under the Lease.

3. Amendments. No provision of this Assignment Agreement may be amended, modified or waived except by written agreement duly executed by each of the parties hereto.

4. Notices. All notices, requests or other communications to or upon any party hereto in connection herewith shall be given in the manner prescribed by Section 22 of the Agreement.

5. Headings. The section headings used in this Assignment Agreement are for convenience of reference only and shall not be used or construed to define, interpret, expand or limit any provision hereof.

6. Counterparts. This Assignment Agreement may be executed in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

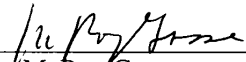
7. Governing Law. This Assignment Agreement shall be governed by, and construed and enforced in accordance with, the internal substantive laws of the State of New York, without giving effect to its conflict of law rules (other than Section 5-1401 of the New York General Obligations Law).

8. Entire Agreement. This Assignment, and the other ACC Operative Documents (as defined in the Agreement) (together with their exhibits and schedules) represent the entire agreement of the parties with respect to the subject matter hereof and thereof and supersede and cancel any prior oral or written agreement, letter of intent or understanding with respect to such subject matter. To the extent the terms of the Agreement conflict with this Assignment and Assumption Agreement, the Agreement shall control.

9. Binding Agreement. This Assignment and Assumption Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of each of the parties.

IN WITNESS WHEREOF, Assignor and Assignee have executed this Assignment and Assumption Agreement as of the date first set forth above.

C.I.T. LEASING CORPORATION

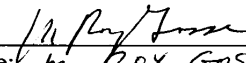
By:   
Name: M. Roy Gosse  
Title: Vice President

MRC RAIL SERVICES, LLC

By: \_\_\_\_\_  
Name:  
Title:

The CIT Group/Equipment Financing, Inc., a Delaware corporation joins in the assignment to assign any rights it may have in the Lease.

THE CIT GROUP/EQUIPMENT FINANCING,  
INC.

By:   
Name: M. Roy Gosse  
Title: VICE PRESIDENT

6. Counterparts. This Assignment Agreement may be executed in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

7. Governing Law. This Assignment Agreement shall be governed by, and construed and enforced in accordance with, the internal substantive laws of the State of New York, without giving effect to its conflict of law rules (other than Section 5-1401 of the New York General Obligations Law).

8. Entire Agreement. This Assignment, and the other ACC Operative Documents (as defined in the Agreement) (together with their exhibits and schedules) represent the entire agreement of the parties with respect to the subject matter hereof and thereof and supersede and cancel any prior oral or written agreement, letter of intent or understanding with respect to such subject matter. To the extent the terms of the Agreement conflict with this Assignment and Assumption Agreement, the Agreement shall control.

9. Binding Agreement. This Assignment and Assumption Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of each of the parties.

IN WITNESS WHEREOF, Assignor and Assignee have executed this Assignment and Assumption Agreement as of the date first set forth above.

C.I.T. LEASING CORPORATION

By: \_\_\_\_\_  
Name:  
Title:

MRC RAIL SERVICES, LLC

By: Michihiko Nose  
Name: Michihiko Nose  
Title: President

The CIT Group/Equipment Financing, Inc., a Delaware corporation joins in the assignment to assign any rights it may have in the Lease.

THE CIT GROUP/EQUIPMENT FINANCING,  
INC.

By: \_\_\_\_\_  
Name:  
Title:

STATE OF NEW YORK )

SS:

COUNTY OF NEW YORK )

On this 27<sup>th</sup> day of June, 2003, before me personally appeared M. Roy Grosse, to me personally known, who being by me duly sworn, says that he is VICE PRESIDENT of C.I.T. Leasing Corporation and that the foregoing Assignment and Assumption Agreement was signed on behalf of said corporation by authority of its Board of Directors. Further, he acknowledged that the execution of the foregoing Assignment and Assumption Agreement was the free act and deed of said corporation.

Barbara Garner  
Notary Public

BARBARA GARNER  
Notary Public, State of New York  
No. 01GA5065133  
Qualified in Nassau County  
My commission expires Sept. 3, 2006

STATE OF NEW YORK )

SS:

COUNTY OF NEW YORK )

On this 27<sup>th</sup> day of June, 2003, before me personally appeared M. Roy Grosse, to me personally known, who being by me duly sworn, says that he is VICE PRESIDENT of The CIT Group/Equipment Financing, Inc. and that the foregoing Assignment and Assumption Agreement was signed on behalf of said corporation by authority of its Board of Directors. Further, he acknowledged that the execution of the foregoing Assignment and Assumption Agreement was the free act and deed of said corporation.

Barbara Garner  
Notary Public

[Notarial Seal]

My commission expires.

BARBARA GARNER  
Notary Public, State of New York  
No. 01GA5065133  
Qualified in Nassau County  
Certificate filed in New York County  
Commission Expires Sept 3, 2006

STATE OF ILLINOIS )

SS:

COUNTY OF COOK )

On this \_\_\_\_ day of June, 2003, before me personally appeared \_\_\_\_\_, to me personally known, who being by me duly sworn, says that he is \_\_\_\_\_ of MRC Rail Services LLC, and that the foregoing Assignment and Assumption Agreement was signed on behalf of said limited liability company by authority of its Management Committee. Further, he acknowledged that the execution of the foregoing Assignment and Assumption Agreement was the free act and deed of said limited liability company.

\_\_\_\_\_  
Notary Public

[Notarial Seal]

My commission expires.

STATE OF NEW YORK     )  
                                  )     SS:  
COUNTY OF NEW YORK    )

On this \_\_\_\_ day of June, 2003, before me personally appeared \_\_\_\_\_, to me personally known, who being by me duly sworn, says that he is \_\_\_\_\_ of C.I.T. Leasing Corporation and that the foregoing Assignment and Assumption Agreement was signed on behalf of said corporation by authority of its Board of Directors. Further, he acknowledged that the execution of the foregoing Assignment and Assumption Agreement was the free act and deed of said corporation.

\_\_\_\_\_  
Notary Public

[Notarial Seal]  
My commission expires.  
\_\_\_\_\_

STATE OF NEW YORK     )  
                                  )     SS:  
COUNTY OF NEW YORK    )

On this \_\_\_\_ day of June, 2003, before me personally appeared \_\_\_\_\_, to me personally known, who being by me duly sworn, says that he is \_\_\_\_\_ of The CIT Group/Equipment Financing, Inc. and that the foregoing Assignment and Assumption Agreement was signed on behalf of said corporation by authority of its Board of Directors. Further, he acknowledged that the execution of the foregoing Assignment and Assumption Agreement was the free act and deed of said corporation.

\_\_\_\_\_  
Notary Public

[Notarial Seal]  
My commission expires.  
\_\_\_\_\_

STATE OF ILLINOIS         )  
                                  )     SS:  
COUNTY OF COOK            )

On this 27 day of June, 2003, before me personally appeared Michihiro Nose, to me personally known, who being by me duly sworn, says that he is PRESIDENT of MRC Rail Services LLC, and that the foregoing Assignment and Assumption Agreement was signed on behalf of said limited liability company by authority of its Management Committee. Further, he acknowledged that the execution of the foregoing Assignment and Assumption Agreement was the free act and deed of said limited liability company.

Teresa Taylor  
Notary Public

[Notarial Seal]  
My commission expires.  
\_\_\_\_\_



Exhibit A  
to  
Assignment and Assumption Agreement

DESCRIPTION OF LEASE

Schedule No. 01, dated December 9, 2002, between Assignor and The American Coal Company ("ACC"), incorporating the terms of the Master Railcar Lease dated December 9, 2002, between THE CIT GROUP/EQUIPMENT FINANCING, INC. and ACC, a memorandum of which was filed with the Surface Transportation Board on February 4, 2003, under Recordation No. 24316, and as amended by that certain Amendment No. 1 to Schedule No. 01 to Master Railcar Lease between Leasing and ACC, dated as of June 23, 2003 with respect to the ACC Cars filed with the Surface Transportation Board on \_\_\_\_\_, under Recordation No. 24316-\_\_